

ESTTA Tracking number: **ESTTA303548**

Filing date: **08/28/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	McDonald's Corporation
Granted to Date of previous extension	09/02/2009
Address	One McDonald's Plaza Oak Brook, IL 60523 UNITED STATES
Attorney information	John A Cullis Neal, Gerber & Eisenberg LLP 2 North LaSalle Street, Suite 1700 Chicago, IL 60602 UNITED STATES apeterson@ngelaw.com, jcullis@ngelaw.com, mturner@ngelaw.com, rbrowne@ngelaw.com, mbenson@ngelaw.com Phone:312-269-8000

Applicant Information

Application No	77650095	Publication date	05/05/2009
Opposition Filing Date	08/28/2009	Opposition Period Ends	09/02/2009
Applicant	Kaufman, Lance R. 10888 E. Karen Drive Scottsdale, AZ 85255 UNITED STATES		

Goods/Services Affected by Opposition

Class 009.


All goods and services in the class are opposed, namely: Cell phones; Cellular phones; Computer application software for mobile phones; Computer software, namely, electronic financial platform that accommodates multiple types of payment and debt transactions in an integrated mobile phone, PDA, and web based environment; Credit card encoding machines; Digital cellular phones; Digital phones; Digital trading cards in the nature of multimedia software recorded on magnetic media featuring programming in the field of financial transactions; Electronic and magnetic ID cards for use in connection with payment for services; Electronic card readers; Electronic machines for reading credit cards and recording financial operations; Encoded electronic chip cards for use in connection with payments for goods and services; Encoded integrated circuit cards containing programming used to transfer money; Encoded magnetic cards; Encoded smart cards containing programming used to transfer funds; Magnetic cards; Magnetic coded cards for use in connection with payments for goods and services; Magnetic coded gift cards; Magnetic identifying cards; Magnetically encoded credit cards; Magnetically encoded debit cards; Magnetically encoded identity cards; Magnetically encoded key cards; Software for the operational management of portable magnetic and electronic cards

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	743572	Application Date	05/04/1961
Registration Date	01/08/1963	Foreign Priority Date	NONE
Word Mark	MCDONALD'S		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U100 (International Class 042). First use: First Use: 1948/12/00 First Use In Commerce: 1953/05/06 Drive-In Restaurant Services		

U.S. Registration No.	939100	Application Date	07/22/1971
Registration Date	07/25/1972	Foreign Priority Date	NONE
Word Mark	MCDONALDLAND		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U100 (International Class 042). First use: First Use: 1971/01/01 First Use In Commerce: 1971/01/01 RESTAURANT SERVICES		

U.S. Registration No.	1251912	Application Date	07/06/1982
Registration Date	09/20/1983	Foreign Priority Date	NONE
Word Mark	MCHAPPY DAY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1979/05/27 First Use In Commerce: 1979/05/27 Restaurant Services		

U.S. Registration No.	1266500	Application Date	06/21/1982
Registration Date	02/07/1984	Foreign Priority	NONE

		Date	
Word Mark	MC DOUBLE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1977/06/30 First Use In Commerce: 1977/09/30 a Sandwich for Consumption On or Off Premises		


U.S. Registration No.	1358486	Application Date	05/18/1984
Registration Date	09/03/1985	Foreign Priority Date	NONE
Word Mark	MCJOBS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1982/09/30 First Use In Commerce: 1982/09/30 TRAINING HANDICAPPED PERSONS AS RESTAURANT EMPLOYEES		

U.S. Registration No.	1465947	Application Date	08/21/1986
Registration Date	11/17/1987	Foreign Priority Date	NONE
Word Mark	MCSTOP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1985/11/00 First Use In Commerce: 1985/11/00 RESTAURANT SERVICES PROVIDED IN TRAVEL PLAZAS		

U.S. Registration No.	1485633	Application Date	02/13/1984
Registration Date	04/19/1988	Foreign Priority Date	NONE
Word Mark	MCMUFFIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1983/05/00 First Use In Commerce: 1983/05/00 RESTAURANT SERVICES		

U.S. Registration No.	1577119	Application Date	06/22/1989
Registration Date	01/09/1990	Foreign Priority Date	NONE
Word Mark	MCFAX		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 042. First use: First Use: 1988/12/03 First Use In Commerce: 1989/02/01 RESTAURANT SERVICES		
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U.S. Registration No.	1579598	Application Date	06/02/1989
Registration Date	01/23/1990	Foreign Priority Date	NONE
Word Mark	MCCLIP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1985/10/02 First Use In Commerce: 1985/10/02 BARBER SHOP SERVICES		

U.S. Registration No.	1592450	Application Date	08/21/1989
Registration Date	04/17/1990	Foreign Priority Date	NONE
Word Mark	MCPOOL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1989/07/06 First Use In Commerce: 1989/07/06 RECREATIONAL SERVICES IN THE NATURE OF PROVIDING SWIMMING FACILITIES		

U.S. Registration No.	1735904	Application Date	07/23/1991
Registration Date	12/01/1992	Foreign Priority Date	NONE
Word Mark	MCFREE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 1983/00/00 First Use In Commerce: 1985/00/00 chemical preparations to prevent and cure clogged drains		

U.S. Registration No.	1878115	Application Date	12/03/1993
Registration Date	02/07/1995	Foreign Priority Date	NONE



Word Mark	MCMERCHANDISE
Design Mark	
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 1993/09/00 First Use In Commerce: 1993/09/00 mail order services featuring novelty items

U.S. Registration No.	1947099	Application Date	08/08/1991
Registration Date	01/09/1996	Foreign Priority Date	NONE
Word Mark	MC		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1995/06/14 First Use In Commerce: 1995/06/14 restaurant services		

U.S. Registration No.	2056279	Application Date	09/28/1995
Registration Date	04/22/1997	Foreign Priority Date	NONE
Word Mark	MCDIRECT SHARES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1995/11/06 First Use In Commerce: 1995/11/06 financial services, namely providing a direct company stock purchase plan		

U.S. Registration No.	2678444	Application Date	12/11/1998
Registration Date	01/21/2003	Foreign Priority Date	NONE
Word Mark	MCSCHOLAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1997/01/31 First Use In Commerce: 1997/01/31 Educational services namely providing educational scholarships		

U.S. Registration No.	2684782	Application Date	09/12/2001
Registration Date	02/04/2003	Foreign Priority Date	NONE
Word Mark	MCTEACHER'S NIGHT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2001/11/15 First Use In Commerce: 2001/11/15		

CHARITABLE FUNDRAISING			
U.S. Registration No.	3151707	Application Date	05/12/2004
Registration Date	10/03/2006	Foreign Priority Date	NONE
Word Mark	MCGRIDDLES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 2000/10/31 First Use In Commerce: 2000/10/31 HOT CAKES		
U.S. Registration No.	3407069	Application Date	03/16/2006
Registration Date	04/01/2008	Foreign Priority Date	NONE
Word Mark	MCSKILLET		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2006/04/13 First Use In Commerce: 2006/04/13 BREAKFAST ENTREES CONSISTING OF EGGS, MEAT, CHEESE AND VEGETABLES		
U.S. Registration No.	1249819	Application Date	06/21/1982
Registration Date	08/30/1983	Foreign Priority Date	NONE
Word Mark	MORNING MONEY		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 016. First use: First Use: 1981/01/00 First Use In Commerce: 1981/01/00 Printed Redeemable Certificates


U.S. Registration No.	1286823	Application Date	09/30/1982
Registration Date	07/24/1984	Foreign Priority Date	NONE

Word Mark	M MCDONALDS
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Design Mark	
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Description of Mark	NONE
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Goods/Services	<p>Class 006. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00 Key Chains, Key Tags and Fobs, Not of Precious Metal</p> <p>Class 009. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00 Video and Audio Tapes and Films (Processed), Radios, Cameras and Electronic Calculators</p> <p>Class 011. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 Flashlights</p> <p>Class 014. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00 Jewelry and Clocks</p> <p>Class 016. First use: First Use: 1968/00/00 First Use In Commerce: 1968/00/00 Annual Reports, Newsletters, Brochures Pertaining to McDonald's Corporation, Prospectus, Comic Books and Coloring Books, Paper Party Hats, Calendars, Pens, Pencils and Playing Cards</p> <p>Class 018. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00 Luggage-Namely, Portfolios, Wallets, Tote Bags, Attache Cases, and Business Card Holders</p> <p>Class 021. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00 Beverage Trays and Holders, Glassware-Namely, Drinking Glasses and Pitchers, and Ice Chests</p> <p>Class 026. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 Belt Buckles</p> <p>Class 028. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00 Sporting Goods-Namely, Tennis Balls, Golf Balls, Tees, Markers, and Divot Fixers, Puzzles and Equipment Sold as a Unit for Playing Board and Dart-Type Games</p> <p>Class 034. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00 Cigarette Lighters</p>
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U.S. Registration No.	1289796	Application Date	09/30/1982
Registration Date	08/14/1984	Foreign Priority Date	NONE
Word Mark	M		
Design Mark			
Description of Mark	The mark consists of a double arch design.		
Goods/Services	<p>Class 006. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00 Key Chains, Key Tags and Fobs, Not of Precious Metal</p> <p>Class 009. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00 Video and Audio Tapes and Film (Processed), Radios, Cameras and Electronic Calculators</p> <p>Class 011. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 Flashlights</p> <p>Class 014. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00 Jewelry, Watches and Clocks</p> <p>Class 016. First use: First Use: 1968/00/00 First Use In Commerce: 1968/00/00 Annual Reports, Newsletters, Brochures Pertaining to McDonald's Corporation, Prospectus, Comic Books, Coloring Books, Paper Party Hats, Calendars, Pens, Pencils and Playing Cards</p> <p>Class 018. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00 Luggage-Type Portfolios, Handbags, Wallets, Tote Bags, Attache Cases, Business Card Holders and Umbrellas</p> <p>Class 021. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00 Beverage Trays and Holders, Glassware-Namely, Drinking Glasses and Pitchers, and Ice Chests</p> <p>Class 025. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00 Men's Clothing, Women's Clothing and Children's Clothing-Namely, T-Shirts, Nightshirts, Hats, Visors, Vests, Shorts, Warmup Suits, Scarves, Sweatbands, Suspenders and Belts</p> <p>Class 026. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 [Belt Buckles]</p> <p>Class 028. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00 [Sporting Goods-Namely, Tennis Balls, Golf Balls, Tees, Markers, and Divot Fixers, Puzzles and Equipment Sold as a Unit for Playing Board and Dart-Type Games]</p> <p>Class 034. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00 [Cigarette Lighters]</p>		
U.S. Registration	1460213	Application Date	03/16/1987

No.			
Registration Date	10/06/1987	Foreign Priority Date	NONE
Word Mark	MCBUCKS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1984/08/27 First Use In Commerce: 1987/03/06 PRINTED REDEEMABLE CERTIFICATES		


U.S. Registration No.	1897507	Application Date	06/20/1994
Registration Date	06/06/1995	Foreign Priority Date	NONE
Word Mark	MC\$		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1994/06/15 First Use In Commerce: 1994/06/15 printed materials, namely newsletters in the area of financial management		

U.S. Registration No.	2772543	Application Date	06/22/2000
Registration Date	10/07/2003	Foreign Priority Date	NONE
Word Mark	M		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 2003/03/12 First Use In Commerce: 2003/03/12 Providing multiple user access to a global information network		

U.S. Registration No.	3106716	Application Date	07/07/2005
Registration Date	06/20/2006	Foreign Priority Date	NONE
Word Mark	ARCH CARD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2005/11/29 First Use In Commerce: 2005/11/29 ENCODED ELECTRONIC DEBIT AND STORED-VALUE CARDS		

U.S. Registration No.	3581296	Application Date	09/13/2007
Registration Date	02/24/2009	Foreign Priority Date	NONE
Word Mark	STATION M		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 2008/03/30 First Use In Commerce: 2008/03/30 PROVIDING ON-LINE CHAT ROOMS AND ELECTRONIC BULLETIN BOARDS FOR TRANSMISSION OF MESSAGES AMONG USERS IN THE FIELD OF GENERAL INTEREST		

U.S. Registration No.	1506327	Application Date	12/17/1987
Registration Date	09/27/1988	Foreign Priority Date	NONE
Word Mark	MC\$AVE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 1987/11/16 First Use In Commerce: 1987/11/16 ADMINISTERING AN EMPLOYEE SAVINGS PLAN

Attachments	72398083#TMSN.gif (1 page)(bytes) 73804079#TMSN.gif (1 page)(bytes) 78417184#TMSN.jpeg (1 page)(bytes) 78839012#TMSN.jpeg (1 page)(bytes) 73395990#TMSN.gif (1 page)(bytes) 73394630#TMSN.gif (1 page)(bytes) 74540212#TMSN.gif (1 page)(bytes) 78013921#TMSN.gif (1 page)(bytes) 78665577#TMSN.jpeg (1 page)(bytes) 77278719#TMSN.jpeg (1 page)(bytes) 73701563#TMSN.gif (1 page)(bytes) NGEDOCs-#1650626-v2-Notice_of_Opposition.pdf (9 pages)(26904 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/John A Cullis/
Name	John A Cullis
Date	08/28/2009

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of:
Application Serial No. 77/650,095
Published in the *Official Gazette*
May 5, 2009

McDONALD’S CORPORATION,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
LANCE R. KAUFMAN,)	
)	
Applicant.)	Mark: McPHONE

NOTICE OF OPPOSITION

Opposer, McDONALD’S CORPORATION (“McDonald’s”), a corporation organized and existing under the laws of the State of Delaware, with offices at One McDonald’s Plaza, Oak Brook, Illinois 60523-1900, believes that it will be damaged by registration of the mark “McPHONE” in International Class 9, as shown in Application Serial No. 77/650,095 filed by Applicant, Lance R. Kaufman (“Applicant”), and hereby opposes the same and requests that registration to Applicant be refused.

As grounds for its opposition, McDonald’s alleges that:

1. Applicant seeks to register a mark that consists of the term “McPhone” for use in International Class 9 in connection with the following goods and services: cell phones; cellular phones; computer application software for mobile phones; computer software, namely, electronic financial platform that accommodates multiple types of payment and debt transactions in an integrated mobile phone, PDA, and web based environment; credit card encoding machines; digital cellular phones; digital phones; digital trading cards in the nature of multimedia software

recorded on magnetic media featuring programming in the field of financial transactions; electronic and magnetic ID cards for use in connection with payment for services; electronic card readers; electronic machines for reading credit cards and recording financial operations; encoded electronic chip cards for use in connection with payments for goods and services; encoded integrated circuit cards containing programming used to transfer money; encoded magnetic cards; encoded smart cards containing programming used to transfer funds; magnetic cards; magnetic coded cards for use in connection with payments for goods and services; magnetic coded gift cards; magnetic identifying cards; magnetically encoded credit cards; magnetically encoded debit cards; magnetically encoded identity cards; magnetically encoded key cards; and software for the operational management of portable magnetic and electronic cards (hereinafter, “the McPHONE mark”). The application is an intent-based application filed under 15 U.S.C. § 1051(1)(b).

2. McDonald’s has obtained the necessary extensions of time in which to file this Notice of Opposition. Accordingly, this Notice of Opposition is being timely submitted.

3. Since 1955, McDonald’s has been in the business of developing, operating, franchising, and servicing an extensive system of restaurants that prepare, package, and sell a wide variety of high quality, quickly-prepared, modestly-priced foods. McDonald’s has carried on this business throughout the United States and the world. McDonald’s and its subsidiaries now operate or license thousands of restaurants throughout the world, including over 14,000 restaurants in the United States.

4. In connection with this business, McDonald’s has, for decades, extensively used its “Mc” family of marks, which includes the “Mc” formative used with various generic or descriptive terms, as trademarks and service marks in advertising, promoting and selling various food products and restaurant services. McDonald’s even maintains a registration for the “Mc”

mark alone. Over the past forty years, McDonald's has expanded its use of "Mc" formative marks across a wide variety of non-restaurant related goods and services. The following is a partial list of federal trademark registrations for "Mc" formative marks that McDonald's maintains:

	<u>MARK NAME</u>	<u>REG. NO.</u>	<u>REG. DATE</u>	<u>GOODS/SERVICES</u>
1.	McDONALD'S	743,572	01/08/1963	Restaurant services
2.	McDONALDLAND	939,100	07/25/1972	Restaurant services
3.	McHAPPY DAY	1,251,912	09/20/1983	Restaurant services
4.	McDOUBLE	1,266,500	02/07/1984	A sandwich for consumption on or off premises
5.	McJOBS	1,358,486	09/03/1985	Training handicapped persons as restaurant employees
6.	McSTOP	1,465,947	11/17/1987	Restaurant Services provided in travel plazas
7.	McMUFFIN	1,485,633	04/19/1988	Restaurant Services
8.	McFAX	1,577,119	01/09/1990	Restaurant Services
9.	McCLIP	1,579,598	01/23/1990	Barbershop services
10.	McPOOL	1,592,450	4/17/1990	Recreational services in the nature of providing swimming facilities
11.	McFREE	1,735,904	12/01/1992	Chemical preparations to prevent and cure clogged drains
12.	McMERCHANDISE	1,878,115	02/07/1995	Mail order services featuring novelty items
13.	Mc	1,947,099	01/09/1996	Restaurant services
14.	McDIRECT SHARES	2,056,279	09/28/1995	Financial services, namely providing a direct company stock purchase plan
15.	McSCHOLAR	2,678,444	01/21/2003	Educational services, namely providing educational scholarships

<u>MARK NAME</u>	<u>REG. NO.</u>	<u>REG. DATE</u>	<u>GOODS/SERVICES</u>
16. McTEACHER'S NIGHT	2,684,782	02/04/2003	Charitable fundraising
17. McGRIDDLES	3,151,707	10/03/2006	Hot cakes
18. McSKILLET	3,407,069	04/01/2008	Breakfast entrees consisting of eggs, meat, cheese and vegetables

5. Each of the above registrations is at least *prima facie* evidence of the validity of each registration, of McDonald's ownership thereof, and of McDonald's exclusive right to use each registered mark on the goods or services set forth in its respective registration. These marks are all active, and were both in use and registered before Applicant filed his application for the McPHONE mark.

6. In addition to the above cited marks, McDonald's has historically used numerous "Mc" formative marks in commerce in connection with a variety of non-food related services. Such marks include: McBUDDY (charitable services), McBUTTON (novelty buttons), McCALENDAR (calendars), McDATA (consulting services), McLIGHT (flashlights), McLODGE (hotel services), McPEN (pens), McPRODUCT (novelty items), McRULER (rulers), McSHADES (sunglasses), McSHIRT (men's and women's clothing), McSHUTTLE (transportation services), McSTORE (retail services), McTRAVEL (travel agency services) and McWATCH (watches). Such historical use is further evidence of the scope and breadth of McDonald's "Mc" family of marks.

7. McDonald's goods and services offered in association with its "Mc" formative marks are advertised and promoted throughout the United States. McDonald's extensive advertising and promotion of its various goods and services under its "Mc" formative family of marks features the use of television and print advertising, radio, newspaper and magazine advertising, outdoor billboard, Internet advertising and direct mail, all of which are directed to

and reach the public in both local and nationwide markets. In addition, McDonald's uses its "Mc" formative family of marks on product packaging and point of purchase advertising.

8. As a result of the use, over many years, of various "Mc" formative marks such as those listed above, McDonald's has developed exceedingly valuable goodwill with respect to its "Mc" family of marks. Such use has caused consumers worldwide to associate composite terms incorporating "Mc" with McDonald's. As a result of its efforts, McDonald's "Mc" family of marks is famous and was famous long prior to Applicant's filing of his application for the McPHONE mark.

9. In addition, McDonald's has, for many years, offered products and services similar or identical to the types of products and services which Applicant purports an intent to offer under the McPHONE mark. Specifically, McDonald's has offered both electronically encoded debit / stored value cards and electronic communication products and services for many years. McDonald's also now offers WI-FI Internet access at many of its McDonald's locations. McDonald's offering of such products and services is demonstrated by this partial list of federally registered marks, which McDonald's also maintains:

<u>MARK NAME</u>	<u>REG. NO.</u>	<u>REG. DATE</u>	<u>GOODS/SERVICES</u>
1. MORNING MONEY	1,249,819	08/30/1983	Printed redeemable certificates
2. McDONALD'S	1,286,823	07/24/1984	Video and audio tapes and film, radios, cameras and electronic calculators
3. "Golden Arches"	1,289,796	08/04/1984	Video and audio tapes and film, radios, cameras and electronic calculators
4. McBUCKS	1,460,213	10/06/1987	Printed redeemable certificates
5. Mc\$AVE	1,506,327	09/27/1988	Administering an employee savings plan

<u>MARK NAME</u>	<u>REG. NO.</u>	<u>REG. DATE</u>	<u>GOODS/SERVICES</u>
6. Mc\$	1,897,507	06/06/1995	Printed materials, namely newsletters in the area of financial management
7. “Golden Arches” logo in modified “@” symbol	2,772,543	10/07/2003	Providing multiple user access to a global information network
8. ARCH CARD	3,106,716	06/20/2006	Encoded electronic debit and stored-value cards
9. STATION M	3,581,296	02/24/2009	Providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest

10. Each of the aforesaid registrations is at least *prima facie* evidence of the validity of each registration, of McDonald’s ownership thereof, and of McDonald’s exclusive right to use such registered mark on the goods or services set forth in the registration. These marks are all active and in use. More importantly, they indicate McDonald’s offering of the types of goods Applicant purports an intent to offer.

11. Despite McDonald’s long-standing prior rights in its “Mc” family of marks and its active participation in and association with the types of products and services Applicant purports an intent to offer, Applicant filed its trademark application on or about January 15, 2009, to register the McPHONE mark.

12. Applicant’s advertising and intended use of the term “McPHONE” will inevitably reach the same consumers that McDonald’s targets with its use of its famous “Mc” family of marks.

13. Consumers, upon seeing the term “McPHONE” used in connection with Applicant’s mobile phones, PDAs, and magnetically and electronically encoded cards, are likely to mistakenly believe that such a term and the goods provided in connection with it originated

with or are connected with, sponsored by, associated with, or licensed or approved by McDonald's. Thus, the registration and use by Applicant of the McPHONE mark in connection with the recited goods is likely to cause confusion, mistake, or deception in violation of 15 U.S.C. § 1052(d).

14. Issuance of a registration to Applicant for the McPHONE mark would also diminish the distinctive quality of McDonald's rights in its famous "Mc" family of marks and would blur and otherwise impair the distinctiveness of this family of marks, in violation of 15 U.S.C. § 1125(c). In addition, should the quality of Applicant's products or services be lacking, Applicant's use of the McPHONE mark may also tarnish the good image of McDonald's famous "Mc" family of marks, and would thereby cause harm to McDonald's reputation in violation of 15 U.S.C. § 1125(c).

15. If a registration is issued to Applicant for the McPHONE mark, the confusion with McDonald's marks would result in damage and injury to McDonald's and the public. Registration of this term would give Applicant an unqualified right to wrongfully appropriate McDonald's valuable goodwill and reputation associated with McDonald's marks; to benefit from the likely confusion among purchasers led to believe that Applicant's services are related in some fashion to McDonald's; to dilute the distinctiveness of McDonald's marks and harm its goodwill and reputation associated with its marks; to tarnish McDonald's good name by offering confusingly similar goods and services not subject to McDonald's quality controls; and to restrict the natural growth of McDonald's "Mc" family of marks.

WHEREFORE, McDonald's requests that this Opposition be sustained and Application Serial No. 77/650,095 be refused registration.

Please charge the fee of \$300 and any additional fees related to this matter to Deposit Account No. 502261.

Respectfully submitted,
McDONALD'S CORPORATION

Date: August 28, 2009

By: / John A. Cullis/
Robert E. Browne
Michael G. Kelber
John A. Cullis
Mike R. Turner
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CERTIFICATE OF TRANSMISSION

I hereby certify that the foregoing *Notice of Opposition* is being electronically transmitted via the Electronic System for Trademark Trials and Appeals (“ESTTA”) at <http://estta.uspto.gov/> on the date noted below:

Date: August 28, 2009

By: / John A. Cullis/
One of the Attorneys for McDonald’s Corporation

Robert E. Browne
Michael G. Kelber
John A. Cullis
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CERTIFICATE OF SERVICE

I, Mike R. Turner, state that I served a copy of the foregoing *Notice of Opposition* upon the Applicant for Application Serial No. 77/650,095 at his address of record as listed with the USPTO:

Lance R. Kaufman
10888 E. Karen Dr.
Scottsdale, AZ 85255-1817

via First Class Mail in accordance with Trademark Rule §§ 2.201 and 2.119 on this 28th day of August, 2009.

/ Mike R. Turner/
Mike R. Turner

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